

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

IN THE MATTER OF:

KAREN J. ANTHONY,

Debtor.

4:12-CV-3124
4:12-CV-3125
4:12-CV-3126

BANKRUPTCY NO. BK11-42232

MEMORANDUM AND ORDER

This case is before the Court on the debtor's notices of appeal (case no. 4:12-cv-3124 filing [1](#), case no. 4:12-cv-3125 filing [1](#), case no. 4:12-cv-3126 filing [1](#)). Fed. R. Bankr. P. 8001 requires that a notice of appeal "contain all the names of all the parties to the judgment, order or decree appealed from and the names, addresses, and telephone numbers of their respective attorneys. . . ." That procedure does not appear to have been complied with in these cases; the notices of appeal themselves do not contain such information, and the certificates of service that follow contain incomplete information.

As a result, although the trustees below have been designated as parties to the district court proceedings, the creditors whose claims are at issue have not. Accordingly, the Clerk of the Court will be directed to add the following parties to each of these cases:

Cattle National Bank & Trust Co.
represented by
John M. Guthery
Perry, Guthery, Haase & Gessford PC LLO
233 So 13th St, Ste 1400, Lincoln, NE 68508
(402) 476-9200
jguthery@perrylawfirm.com

Edenton North Home Owner's Association
represented by:
Todd R. Mulliner
Jeffrey, Hahn, Hemmerling & Zimmerman
5640 S. 84th St., Ste. 100, Lincoln, NE 68516
(402) 483-7711
(402) 483-6133 (fax)
bankruptcy@jhhz.net

The Clerk of the Court will likewise be directed to provide each of those parties with notice of each previously-entered filing in these cases.

Of particular note is the debtor's "Emergency Ex Parte Motion for Stay of Order Pending Appeal of the Order on the Cattle National Bank and Trust Co.'s Motion for Relief from Stay" (case no 4:12-cv-3124 filing [11](#)). An "ex parte" proceeding is one in which not all parties are present or given the opportunity to be heard—that is, done for the benefit of one party only, and without notice to adverse parties. *See U.S. v. Abreu, 202 F.3d 386 (1st Cir. 2000)*. In other words, an "ex parte" motion is decided by the Court without notice to the other parties.

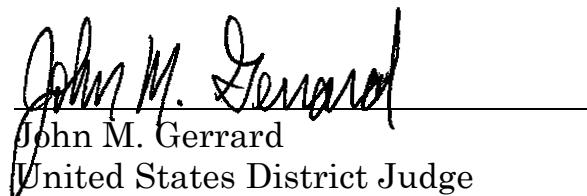
The debtor's motion in this case is designated "ex parte," but the attached certificate of service suggests that the debtor expected the trustees and the attorney for one of the creditors to be provided with notice of the filing. In other words, it appears that the debtor did not appreciate the effect of designating her motion as "ex parte." Therefore, the Court will also direct the Clerk of the Court to provide notice to all parties (including those added pursuant to this order) of the debtor's "ex parte" motion.

IT IS ORDERED:

1. The Clerk of the Court shall add, as parties to each of these appeals, the creditors listed above.
2. The Clerk of the Court shall provide notice to those parties of the previous filings in these appeals.
3. The Clerk of the Court shall provide notice to all parties of the debtor's "Emergency Ex Parte Motion for Stay of Order Pending Appeal of the Order on the Cattle National Bank and Trust Co.'s Motion for Relief from Stay" (case no 4:12-cv-3124 filing [11](#)).

Dated this 19th day of June, 2012.

BY THE COURT:



John M. Gerrard
United States District Judge